IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 26012 of 2007(V)

PETITIONER:

ULTIMA WEBCOATINGS (P) LTD.,
W-5, TEA KNIT INDUSTRIAL COMPLEX,
MALAMPUZHA ROAD, KANKIKODE WEST POST,
PALAKKAD – 678 623,
REPRESNTED BY ITS VICE CHAIRMAN,
MR. K. SURESH KUMAR.

BY ADV. SRI.A.M.SHAFFIQUE

RESPONDENT:

THE ASSISTANT PROVIDENT FUND ORGNISATION,
SUB REGIONAL OFFICE,
ERANHIPALAM, KOZHIKODE – 673 006.

BY SRI. THOMAS NELLIMOOTTIL - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.26012 OF 2007

DATED THIS THE 24th DAY OF AUGUST, 2007

JUDGMENT

The petitioner is an establishment against whom proceedings have been initiated by the respondent under Section 7A(1)(b) of the Employees Provident Fund and Miscellaneous Provisions Act. Ext.P6 is the order passed pursuant to the proceedings. The petitioner is challenging the same on the ground that in the objections filed to the show cause notice the petitioner has categorically stated that the petitioner's establishment is not liable to be covered under the Act. Therefore before assessing contributions, the respondent should have decided the question as to whether the petitioner's establishment is liable to be covered under the Act, by initiating proceedings under Section 7A(1)(a) of the Act, before initiating proceedings under Section 7A(1)(b)of the Act.

2. I have heard the learned standing counsel for the Provident Fund Organisation also. On going through Ext.P2 objections as also Ext.P4 statement submitted by the petitioner I am satisfied that the petitioner has in fact raised a specific objection against the liability of the petitioner to be covered under the Act itself. That being so, the respondents was duty bound to initiate proceedings under Section 7A

(1)(a) of the Act before proceeding under Section 7A(1)(b) of the Act.

3. In the above circumstances, I quash Ext.P6 and direct the respondent to take appropriate proceedings under Section 7A(1)(a) of the Act before proceeding under Section 7A (1)(b) of the Act.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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